

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

AGWAY FARM & HOME SUPPLY, LLC,¹

Debtor.

Chapter 11

Case No. 22-10602 (JKS)

Re: Docket No. 248

**DEBTOR’S MOTION FOR ENTRY OF AN ORDER SHORTENING THE NOTICE
PERIOD WITH RESPECT TO THE EXPEDITED MOTION TO DESIGNATE
STALKING HORSE PURCHASER, APPROVE STALKING HORSE PURCHASE
AGREEMENT, AND PROVIDE BID PROTECTIONS FOR REMAINING ASSETS**

The above-captioned debtor and debtor-in-possession (the “Debtor”), by and through undersigned counsel, hereby move (the “Motion to Shorten”), pursuant to Rule 9006(c) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), Rule 9006-1(c) of the Local Rules of Bankruptcy Practice and Procedure for the District of Delaware (the “Local Rules”) and 11 U.S.C. § 105(a), for entry of an order, substantially in the form attached hereto as **Exhibit A**, shortening the notice period with respect to the Debtor’s *Expedited Motion to Designate Stalking Horse Purchaser, Approve Stalking Horse Purchase Agreement, and Provide Bid Protections for Remaining Assets* (the “Bid Protections Motion”),² which is being filed contemporaneously herewith.

More specifically, the Debtor requests that the Court schedule the Bid Protections Motion to be heard at the hearing on October 14, 2022 at 12:00 p.m. (ET)³ and further requests that the Court set the deadline for the filing of objections to the Bid Protections Motion, if any, at the hearing, and in further support of the Motion to Shorten, the Debtor states as follows:

¹ The last four digits of the Debtor’s federal tax identification number are 1247. The Debtor’s address is 6606 W. Broad Street, Richmond, VA 23230.

² Capitalized terms not otherwise defined herein shall have the meaning set forth in the Bid Protections Motion.

³ A hearing to approve the sale of the Debtor’s assets is also set for hearing at the same time.

BACKGROUND

1. On July 5, 2022 (the “Petition Date”), the Debtor commenced with this Court a voluntary case under chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the District of Delaware (the “Court”). The Debtor continues to operate its business and manage its properties as a debtor in possession as authorized by sections 1107(a) and 1108 of the Bankruptcy Code. No request has been made for the appointment of a trustee or examiner in this Case.

2. An official committee of unsecured creditors (the “Committee”) was appointed by the Office of the United States Trustee pursuant to a notice filed on July 18, 2022.

3. The Bid Protections Motion seeks approval of Myron Bowling as a stalking horse bidder, approval of the Myron Bowling APA, and approval of bid protections for Myron Bowling, as set forth in the Myron Bowling APA.

4. The Debtor did not obtain the Myron Bowling offer until after entry of the Order (A) Approving Bidding Procedures and Protections in Connection With Certain of the Debtor's Assets Free and Clear of Lines, Claims, Encumbrances, and Interests; (B) Scheduling an Auction and Sale Hearing; (C) Approving the Form and Manner of Notice Thereof; and (D) Granting Related Relief (“Bidding Procedures Order”). Pursuant to the Bidding Procedures Order, the auction is to occur on October 12, 2022. In light of the late date, the Debtor cannot obtain approval of bid protections for Myron Bowling on regular notice and must, therefore, file this Motion to Shorten in order to obtain approval of the bid protections for Myron Bowling on or before the date set for approval of the sales on October 14, 2022.

JURISDICTION AND STATUTORY PREDICATES

5. This Court has jurisdiction to consider this Motion under 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware dated as of February 29, 2012. This is a core proceeding pursuant to 28 U.S.C. § 157(b), and, under Rule 9013-1(f) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “Local Rules”), the Debtor consents to the entry of a final order by the Court in connection with this Motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution. Venue of these cases and this Motion in this district is proper under 28 U.S.C. §§ 1408 and 1409. The statutory bases for the relief requested herein are sections 105(a) of the Bankruptcy Code, Bankruptcy Rule 9006(c) and Local Rules 9006-1(c).

RELIEF REQUESTED

6. By this Motion, the Debtor seeks entry of an order, substantially in the form annexed hereto as **Exhibit A**, shortening and limiting notice and objection periods with respect to the Bid Protections Motion. More specifically, the Debtor requests that the Court schedule the Bid Protections Motion to be heard at the hearing on October 14, 2022 at 12:00 p.m. (ET) and further requests that the Court set the deadline for the filing of objections to the Bid Protections Motion, if any, at the hearing.

BASIS FOR RELIEF REQUESTED

7. Pursuant to Fed. R. Bankr. P. 2002(a)(2), a motion seeking relief with regard to proposed sale of property of the estate other than in the ordinary course of business must be heard

on at least twenty-one (21) days' notice. However, a court may shorten notice on such a motion for cause.

8. The Debtor, through the filing of this Motion to Shorten and the contemporaneous filing and service of the Bid Protections Motion, is seeking to have the Bid Protections Motion heard at the hearing on October 14, 2022 at 12:00 p.m. (ET).

9. Local Rule 9006-1(e) provides that the Court, for cause shown, may in its discretion reduce the notice period normally required. The Debtor submits that such cause is shown here.

10. It is critical that the Bid Protections Motion be heard contemporaneously with the approval of the sale of the Debtor's assets to ensure that the Myron Bowling APA is approved and that Myron Bowling receives its bid protections. Without approval of the bid protections, Myron Bowling would not agree to serve in such a role, which is necessary in order to maximize recovery to the Debtor's creditors.

11. For all the foregoing reasons, the Debtor submits that cause exists to shorten the notice for a hearing on the Bid Protections Motion.

12. The undersigned counsel certifies pursuant to Local Rule 9006-1 that a reasonable effort has been made to notify counsel to the United States Trustee and counsel to the Committee of this Motion to Shorten to determine whether there would be an objection to the relief contained in this Motion to Shorten. The UST and counsel to the Committee do not oppose this Motion to Shorten.

WHEREFORE, the Debtor respectfully requests that the Court enter an order, substantially in the form attached hereto as Exhibit A, scheduling the Bid Protections Motion to be heard at the hearing on October 14, 2022 at 12:00 p.m. (prevailing Eastern time) and setting the deadline for

the filing of objections to the Bid Protections Motion, if any, on at the hearing, and granting any relief that is just and proper.

Dated: October 7, 2022
Wilmington, Delaware

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